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09/666,921	09/21/2000	Lucy J. Livingston	99-1326	6725

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EXAMINER

GROSZ, ALEXANDER

ART UNIT

PAPER NUMBER

3673

DATE MAILED: 05/16/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/666, 921

Applicant(s)

LIVINGSTON V

Examiner

GROSS

Group Art Unit

3673

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

## Period for Response

A SHORTENED STATUTORY PERIOD FOR RESPONSE IS SET TO EXPIRE THREE MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a response be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for response specified above is less than thirty (30) days, a response within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for response is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to respond within the set or extended period for response will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

## Status

- ☐ Responsive to communication(s) filed on 9/21/00
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 1-8 is/are pending in the application.  
Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☒ Claim(s) 8 is/~~are~~ allowed.
- ☒ Claim(s) 1-7 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
  - ☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been received.
  - ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.
  - ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s) 2
- ☒ Notice of References Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other \_\_\_\_\_

Office Action Summary

Art Unit: 3673

Figures 4-7 are not clearly understood, and do not seem to be consistent. It is not clear along which lines of view in figure 6, are figures 4, 5 and 7 taken. Are the same or different species of the invention shown in figures 4-7? Applicant is urged to review and amend the drawings, and is required to clearly show the lines of view in figure 6, along which figures 4, 5 and 7 and taken.

On page 10, line 3, "50 must be changed to -17-.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 3-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

No antecedent basis is seen for "said strap" in line 3 of claim 5.

It is not clear which is "said elongate panel" in line 6 of claim 6.

It is not clear what exactly are the various elements of claims 3-6.

In response to this action applicant is urged to identify each and every element of claims 3-6 with reference to the drawings, with numerals in parenthesis. Such numerals will aid in more easily "following" the claims and will help in avoiding "mistakes" but will not in any way limit the scopes of the claims.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Art Unit: 3673

Claims 1, 2 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Dees or Kraft.

Note especially Fig. 3; col 6, lines 5, 6 in Dees; and Figure 7 in Kraft.

Claim 1 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Yellin.

Note pillow 56; Figure 2.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3, 4, 6, 7, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Kraft, teaching applicant's basic device, including a variety of pockets located in various positions in the various embodiments, and an elongate panel, but not a flexible member, in view of Ackley (note flexible member 48).

It would have been obvious to one ordinarily skilled in the art at the time the invention was made to have used a flexible member with Kraft's elongate panel, because Ackley recognizes the desirability of using a flexible member (48) with a similar panel, in order to improve attachment to a lounge chair.

Claim 8 is allowed.

Claim 5 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

Art Unit: 3673

Sneider, Hall, Davis, Doppelt and Spiegelman, teaching the use of tote-bag/support combinations, are cited as relevant art.

Llombart and Bellaiche, teaching the use of various "straps" are made of record.

Grosz/cw  
May 10, 2002



ALEXANDER GROSZ  
PRIMARY EXAMINER